

HEALTH FACILITY COMMITTEE MEETING  
CANNON HEALTH BUILDING, ROOM 125  
MAY 18, 2002, 9:00 A.M. – 12:00 P.M.

**Members Present:** Paul Clayton; Kathy Siskin; Galen Ewer; Keith Tintle; Travis Jackman; Gayle Morawetz; Joyce Wanta; Helen Rollins; and Glade Bigler.

**Members Excused:** Kathleen Fitzgerald; Timothy Thomas; and Mary Peterson.

**Staff Present:** Debra Wynkoop; Larry Naylor; Donna Riley; and Joan Isom.

Ms. Siskin called the meeting to order at 9:05.

1. **Minutes:**

Keith Tintle made a motion to approve the minutes with no corrections or amendments. Glade Bigler seconded the motion. The **MOTION PASSED** unanimously.

2. **Member Recruitment:**

Ms. Wynkoop stated that we have several committee members whose appointments will expire July 1, 2002. We need a registered nurse, a professional in the field of mental retardation, a professional other than a nursing home or hospital, an architect, hospital trustee, and a consumer. Recruitment information was disseminated.

3. **Patient Injury Audit: Dr. Scott William**

Dr. Scott Williams, Department of Health, explained the two Patient Safety rules, which include notifying the DOH of sentinel events and developing a patient injury reduction program. The Health Facility Committee will be responsible to approve and develop a list of auditors to ensure the ADE programs are implemented in hospitals. Dr. Williams explained that Ms. Wynkoop has prepared a Request for Proposal (RFP) for auditors.

The RFP requires candidates to submit a description of their audit experience and work samples. DOH would like to get the information out to the affected parties as soon as possible so that they can collect the data described in the scope of work.

Mr. Tintle questioned, "If auditors fail to meet the requirements is there a mechanism to eliminate these auditors from the list?" Dr. Williams stated that the RFP will be amended to include a mechanism for reviewing performance and appeal rights. Dr. Bruce Murray, Utah Hospital Association, expressed concern that JCAHO would not be interested in participating in the auditing process. Ms. Wynkoop explained that she had met with Mark Crafton from JCAHO and they are very interested in the auditing process. Dr. Clayton made a motion to accept the Patient Safety Audit RFP with the addition of a mechanism for review and appeal. Travis Jackman seconded the motion. The **MOTION PASSED** unanimously.

4. **Physician Order for Life Sustaining Treatment- Helen Rollins**

Ms. Rollins explained that the purpose of the POLST form and rule is to improve the end-of-life care for individuals. Discussion followed on the comments submitted by Dr. Jay Jacobsen and Dave Gessel, Utah Hospital Association.

Helen Rollins made a motion to accept the rule minus section R432-31-5 concerning the Civil Money Penalty (CMP). Keith Tintle seconded the motion. The **MOTION PASSED** unanimously.

Discussion followed on the comments received on the proposed form from Sunshine Terrace and Dr. Jay Jacobsen

Dr. Clayton suggested that box D be amended to include the three levels of care, that a patient either receive no antibiotics, oral antibiotics or invasive antibiotics. Ms. Wynkoop asked for comments concerning the temporary and permanent clause in Box D. Dr. Clayton stated that most treatment is temporary until the doctor can determine if the treatment has not been successful. Ms. Rollins explained that if the treatment is successful how long would the patient want the treatment if their health did not improve? Dr. Clayton said that he thought the words "temporary" and "permanent" be eliminated and define the trial period.

Helen Rollins made a motion to accept the form as amended. Dr. Clayton seconded the motion. The **MOTION PASSED** unanimously.

Helen Rollins explained that the next step would be to educate the citizens of Utah and make the form available to everyone. Ms. Wynkoop stated that the Bureau will need to do education for health care providers and when a health facility adopts this form they will need to update their policy and procedure manual to include its usage. In addition there will be an amendment to the EMS rule to recognize the POLST Form. The Bureau will delay enforcement of the rule six to nine months out in order to give the facilities and departments time to receive training concerning the rule and form. Ms. Wynkoop explained that another sub-committee has been working on drafting a statute change, which will combine the Medical Treatment Plan, the Advanced Directive, the Durable Power of Attorney, DNR form and the EMS into one form. Enforcement of this rule will probably not be in effect until 2003.

Helen Rollins proposed that in our next Health Facility Committee meeting in September that all of the health Facility members complete a Physician Order for Life Sustaining Treatment.

5. **Adult Immunization Rule – Galen Ewer and Linda Abel**

Mr. Ewer explained that the CDC initiated this rule and the majority of their guidelines were used to develop the rule. Ms. Rollins questioned whether the facility will have recourse for a resident who refuses to have the immunization. Mr. Ewer explained that a provision had been included and a facility would not be penalized if a resident refuses the immunization. Ms. Abel also presented a letter of support from the State Vaccine Advisory Committee.

Mr. Tintle questioned whether the facility is obligated to pay for individuals to have their immunizations. Mr. Ewer stated that the intent of the rule is that the facility is obligated to offer the immunization, but they are not obligated to pay for them. Ms. Abel stated that the majority of insurance companies pay for immunizations. Carla Shurtliff, Immunization program, stated that their department did a survey of the long-term care facilities and they found that 1/3 already are providing vaccinations for staff and residents, that 1/3 are paying for the employees to have the vaccinations, and some are just recommending staff have the vaccinations.

Dr. Clayton questioned #3 “Standing order through private providers and how does that apply?” Ms. Wynkoop explained that when an individual is admitted the facility staff need to assess their health status and document immunizations received. Mr. Tintle questioned whether the facility was responsible to ensure that contracted agencies have their immunizations? Ms. Wynkoop stated that should be part of their contract and that the facility is only responsible for their employees.

Dr. Clayton recommended that under #3 the word “may” be added after the word resident so that it implies that vaccines are available, but that the individual is not required to have the vaccination.

Ms. Rollins moved that the rule be adopted with the proposed amendment. Mr. Ewer seconded the motion. The **MOTION PASSED** unanimously.

Ms. Wynkoop explained that this rule will have a six month delay regarding enforcement to allow facilities time to update policy and procedures. The Bureau has draft policies and forms available if a facility wants to adopt the forms.

6. **Construction Rule Amendment: Larry Naylor**

Mr. Naylor explained that Utah Statute has adopted the International Building Code, the International Fire Code and Life Safety Code effective January 2002. Consequently construction rules had to be modified to reflect and reference those changes. The sub-committee made changes to the current rule by adding

clarifications, deleting unnecessary information, correcting typos, and amended some rules as a result of experience with construction of new facilities and modified the penalty section. The Bureau strongly recommended adopting a “single occupancy room” requirement for all new construction of health facilities. This change would improve a residents environment, infection control, and privacy, but the sub-committee required only new hospital construction to provide single rooms.

Mr. Tintle explained that he had been contacted by a hospice group that wanted to contract with him for in-patient hospice care at the hospital. Would the hospital be obligated to give the patient a private room? Ms. Wynkoop explained that hospital is obligated to provide room and board, and that the federal guidelines require a private room.

Ms. Wynkoop explained that the construction guidelines are suggesting building shorter corridors and private rooms to improve patient autonomy. Mr. Tintle commented that private rooms are more expensive and the reimbursement dollars are insufficient to cover the cost. Ms Gallegos, Utah Health Care Association, commented that nursing care facilities provide care for about 2/3 of the Medicaid population. Medicaid prohibits reimbursement for private rooms.

Dr. Clayton questioned why the Bureau just can’t amend the rule to say “based on the current edition” versus rewriting the rules when a reference update is adopted. Ms. Wynkoop explained the rule making process requires each change to reflect the cost of the amendment.

Ms. Wanta made a motion to approve the construction rules except for R432-10-1. Ms. Morawetz seconded the motion. The **MOTION PASSED** unanimously.

#### 7. **Feasibility Study- Keith Tintle**

Mr. Tintle explained this rule requires new facilities to perform prudent planning. This rule would require that a study be conducted, a report submitted to the department, a public notice made of the intent to expand services and the Bureau’s written assessment / opinion assessing the viability/need of that project. If the Bureau delivers a negative report, the facility may continue to proceed.

Ms. Morawetz questioned why this study didn’t have more backbone. Mr. Tintle explained as a first step, the department begins by encouraging an applicant to be more responsible, the next step could be stronger enforcement.

Ms. Wanta suggested that we delete the words “ by you and intend to” on G to make the statement clearer.

Ms. Morawetz made a motion to accept the feasibility study with the proposed change. Mr. Ewer seconded the motion. The **MOTION PASSED** unanimously.

8. **Nursing Home Bed Moratorium- Wu Xu**

Wu Xu summarized the moratorium policy during the last 13 years. The report does not make a recommendation to repeal the moratorium, but concedes that changes need to be made.

Ms. Wynkoop explained the recommendations require the Bureau to publish an annual report regarding long care term care indicators- capacity, occupancy rate, certification survey/ licensing data (picture of services) and projected need to develop a long-term care system in the state of Utah.

Ms. Gallegos reported that the Department of Health and Human Services is requiring that the long-term care facilities publish a consumer report card. She suggests that UHCA, DOH and HealthInsight, coordinate to provide a uniform Report Card.

Wu Xu explained that this report will be distributed to all of the long-term care facilities.

Ms. Rollins made a motion to draft a letter of endorsement for the Nursing Home Bed Moratorium Report by next Friday. Dr. Clayton seconded the motion. The **MOTION PASSED** unanimously.

9. **Long Term Care Acute Hospital – Dr. Clayton**

Dr. Clayton explained that the proposed rule updates the Chronic Disease Hospital rule and renames it to Long Term Care Acute Hospital (LTAC). Ms. Wynkoop reported that we have South Davis, Health South and Infinia Medical Center which are licensed as Chronic Disease hospitals. Dr. Clayton explained that the proposed change to the rule now brings Utah into compliance with the Medicare rules and definition of an LTAC.

Mr. Tintle explained that there are corporations interested in expanding into the LTAC industry, but that there will be a limit on patients. About 1% of the current hospital population will meet the admission criteria.

Mr. Tintle made a motion to adopt the rule with no amendments or changes. Mr. Bigler seconded the motion. The **MOTION PASSED** unanimously.

Dr. Clayton made a motion to adopt the name change on the construction rule R432-10-1 to Long Term Care Acute Hospital. Mr. Bigler seconded the motion. The **MOTION PASSED** unanimously.

10. **Hospice Rule: Ms. Wynkoop**

Five Hundred children die a year in Utah and about 175 of those deaths are related to life threatening illnesses. Utah has been given a planning grant (HOPE) from the Centers of Medicare/Medicaid Services (CMS) and Children's Hospice International to improve pediatric hospice services. HOPE participants are proposing that the definition for terminal illness "with in six months" to include "life-threatening illness" as a hospice service for children.

Other requirements would include, if an agency offers pediatric services they would be required to have pediatric board certified physicians and nurses with

expertise in working with children and children specialties. Ms. Rollins was nominated as the committee chairperson. A co-chairperson will be chosen during our next Health Facility Meeting in September.

11. **Bio-terrorism:**

Utah received \$11,000,000 from the CDC and HRSA to prepare hospitals against bio-terrorism threats. In order to participate in the HRSA grant, hospitals will have to hold one documented bio-terrorism disaster drill annually. Ms Wynkoop explained that the hospital rules currently require two disaster drills annually and the rule could be modified to require one of the two drills address a bio-terrorism event. HRSA will provide planning dollars, training, policy and procedures and assist the hospitals through the exercise. Dr. Clayton made a proposal that one of the mandatory disaster drills be changed to a bio-terrorism drill. Ms. Jackman seconded the motion. The **MOTION PASSED** unanimously.

12. **Accreditation Commission for Health Care Inc.**

The Bureau had been contacted by the Accreditation Commission for Health Care Inc. requesting that they be accepted as an accreditation agency for Home Health Agencies and Home Infusion Agencies. The Bureau has completed a review of the Accreditation Commission for Health Care Inc. standards and found no discrepancies with our rules. Dr. Clayton made a motion to accept the Accreditation Commission for Health Care Inc. as an accrediting body for Home Health Agencies and Home Infusion Agencies. Ms. Morawetz seconded the motion. The **MOTION PASSED** unanimously.

13. **5 year Rule Review:**

Every five years the Bureau is required to file a Notice of Continuation for each rule adopted by the Health Facility Committee. A list of rules to be reviewed was distributed and each member may provide comments by September.

14. **New Finding on Bed Capacity vs. Actual Bed Availability:**

The Nursing Home Risk Initiative was implemented because the Bureau was issuing more conditional licenses for immediate jeopardy and sub-standard quality of care issues. The criteria targets facilities who may have possible problems due to: 1) less than 65% occupancy; 2) two substantiated complaints of actual harm to a resident within three months; or 3) a change in the facilities leadership right after a bad survey. In order to evaluate actual occupancy each facility was contacted to confirm the actual beds. It was discovered that there is a 600 bed difference between actual versus licensed. Ms. Wynkoop asked the Health Facility Committee if the Bureau should require facilities to only report the actual available beds versus the historical licensed number?

Many of the facilities have reduced room occupancy from four to three and could not convert the room back, nor do they have a bed to fill the room. Mr. Tintle stated that if a facility could convert the room back to a licensed room within 48 hours then the room should still be licensed, but that the burden of proof should be

on the facility. Ms. Wynkoop will develop an issue paper for the next Health Facility Committee Meeting.

Mr. Tintle stated his belief that the moratorium may have permitted the nursing care facilities to stagnate and new businesses may have raised the quality of environments which were available. The moratorium gave the existing facilities protection. Mr. Tintle believes that some level of grandfathering should be permitted for remodels and upgrading environment, however, at some time a facility should be forced to update their facility. Further discussion is planned for September's meeting.

The meeting adjourned at 12:05.

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Kathy Siskin, Chair person

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Debra Wynkoop, Executive Secretary